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AMENDED IN SENATE JUNE 24, 2014

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AMENDED IN SENATE JUNE 3, 2014

AMENDED IN ASSEMBLY MARCH 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1511

Introduced by Assembly Member Beth Gaines

January 14, 2014

An act to amend Section 13300 of, and to add Section 11105.07 to, the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL’S DIGEST

AB 1511, as amended, Beth Gaines. Criminal history information: animal control officers.

Existing law requires the Department of Justice to maintain state summary criminal history information, including the identification and criminal history of any person, which may include his or her name, date of birth, physical description, fingerprints, photographs, dates of arrest, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. Existing law authorizes the department, upon a showing of compelling need, to furnish this information in response to a request from certain authorized agencies, organizations, or individuals, including a public utility.

Existing law similarly provides for the disclosure of local summary criminal history information by a local criminal justice agency, upon a

showing of compelling need, to certain authorized agencies, organizations, or individuals.

Existing law makes it a misdemeanor for a person authorized by law to receive state summary criminal history information to knowingly furnish it to a person not authorized by law to receive it.

This bill would authorize an animal control officer, when necessary for the performance of his or her official duties, to obtain state summary criminal history information from a criminal justice agency. The bill would require the criminal justice agency, upon a showing of compelling need, to provide the animal control officer with *state summary criminal history* information obtained from the California Law Enforcement Telecommunication Systems (CLETS). The bill would require the criminal justice agency to provide this information to the animal control officer in a timely manner and would permit the criminal justice agency to charge a reasonable fee sufficient to cover the costs of providing that information. The bill would prohibit an animal control officer who receives that information from using it for any purpose other than the performance of his or her official duties. By requiring local criminal justice agencies to provide this information and by expanding the scope of a crime, the bill would impose a state-mandated local program.

This bill would also authorize local criminal justice agencies to provide local summary criminal history information to an animal control officer for the purposes of performing his or her official duties. The bill would permit a local agency to charge a reasonable fee sufficient to cover the costs of providing that information. By requiring local criminal justice agencies to provide this information and by expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11105.07 is added to the Penal Code, to
2 read:

1 11105.07. (a) An animal control officer, when necessary for
2 performing his or her official duties, shall provide a compelling
3 reason to an appropriate criminal justice agency to obtain state
4 summary criminal history information.

5 (b) Upon a showing of compelling need, the criminal justice
6 agency shall respond to the animal control officer with *state*
7 *summary criminal history* information obtained through the
8 California Law Enforcement Telecommunications Systems
9 (CLETS). The criminal justice agency shall provide this
10 information to the animal control officer in a timely manner. A
11 criminal justice agency may charge a reasonable fee sufficient to
12 cover the costs of providing information pursuant to this
13 subdivision.

14 (c) An animal control officer who receives state summary
15 criminal history information pursuant to this section shall not use
16 that information for any purpose other than for the performance
17 of his or her official duties.

18 (d) A law enforcement officer or other person authorized by
19 law to provide or receive information obtained through CLETS
20 pursuant to this section who knowingly furnishes the record or
21 information to a person who is not authorized by law to receive
22 that information is guilty of violating Section 11142.

23 (e) For the purposes of this section, an animal control officer is
24 a person authorized to exercise the powers specified in Section
25 830.9.

26 SEC. 2. Section 13300 of the Penal Code is amended to read:

27 13300. (a) As used in this section:

28 (1) "Local summary criminal history information" means the
29 master record of information compiled by any local criminal justice
30 agency pursuant to Chapter 2 (commencing with Section 13100)
31 of Title 3 of Part 4 pertaining to the identification and criminal
32 history of any person, such as name, date of birth, physical
33 description, dates of arrests, arresting agencies and booking
34 numbers, charges, dispositions, and similar data about the person.

35 (2) "Local summary criminal history information" does not
36 refer to records and data compiled by criminal justice agencies
37 other than that local agency, nor does it refer to records of
38 complaints to or investigations conducted by, or records of
39 intelligence information or security procedures of, the local agency.

40 (3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or a parole, mandatory supervision, or postrelease community supervision revocation or revocation extension hearing, and when authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) Any city, county, city and county, or district, or any officer or official thereof, when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors, or governing board of

1 the city, county, or district when the local summary criminal history
2 information is required to implement a statute, regulation, or
3 ordinance that expressly refers to specific criminal conduct
4 applicable to the subject person of the local summary criminal
5 history information, and contains requirements or exclusions, or
6 both, expressly based upon the specified criminal conduct.

7 (12) The subject of the local summary criminal history
8 information.

9 (13) Any person or entity when access is expressly authorized
10 by statute when the local summary criminal history information
11 is required to implement a statute, regulation, or ordinance that
12 expressly refers to specific criminal conduct applicable to the
13 subject person of the local summary criminal history information,
14 and contains requirements or exclusions, or both, expressly based
15 upon the specified criminal conduct.

16 (14) Any managing or supervising correctional officer of a
17 county jail or other county correctional facility.

18 (15) Local child support agencies established by Section 17304
19 of the Family Code. When a local child support agency closes a
20 support enforcement case containing summary criminal history
21 information, the agency shall delete or purge from the file and
22 destroy any documents or information concerning or arising from
23 offenses for or of which the parent has been arrested, charged, or
24 convicted, other than for offenses related to the parents having
25 failed to provide support for the minor children, consistent with
26 Section 17531 of the Family Code.

27 (16) County child welfare agency personnel who have been
28 delegated the authority of county probation officers to access state
29 summary criminal information pursuant to Section 272 of the
30 Welfare and Institutions Code for the purposes specified in Section
31 16504.5 of the Welfare and Institutions Code.

32 (17) A humane officer appointed pursuant to Section 14502 of
33 the Corporations Code, for the purposes of performing his or her
34 duties. A local agency may charge a reasonable fee sufficient to
35 cover the costs of providing information pursuant to this paragraph.

36 (c) The local agency may furnish local summary criminal history
37 information, upon a showing of a compelling need, to any of the
38 following, provided that when information is furnished to assist
39 an agency, officer, or official of state or local government, a public
40 utility, or any entity, in fulfilling employment, certification, or

1 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
2 432.7 of the Labor Code shall apply:

3 (1) Any public utility, as defined in Section 216 of the Public
4 Utilities Code, which operates a nuclear energy facility when access
5 is needed to assist in employing persons to work at the facility,
6 provided that, if the local agency supplies the information, it shall
7 furnish a copy of this information to the person to whom the
8 information relates.

9 (2) To a peace officer of the state other than those included in
10 subdivision (b).

11 (3) An animal control officer, authorized to exercise powers
12 specified in Section 830.9, for the purposes of performing his or
13 her official duties. A local agency may charge a reasonable fee
14 sufficient to cover the costs of providing information pursuant to
15 this paragraph.

16 (4) To a peace officer of another country.

17 (5) To public officers, other than peace officers, of the United
18 States, other states, or possessions or territories of the United
19 States, provided that access to records similar to local summary
20 criminal history information is expressly authorized by a statute
21 of the United States, other states, or possessions or territories of
22 the United States when this information is needed for the
23 performance of their official duties.

24 (6) To any person when disclosure is requested by a probation,
25 parole, or peace officer with the consent of the subject of the local
26 summary criminal history information and for purposes of
27 furthering the rehabilitation of the subject.

28 (7) The courts of the United States, other states, or territories
29 or possessions of the United States.

30 (8) Peace officers of the United States, other states, or territories
31 or possessions of the United States.

32 (9) To any individual who is the subject of the record requested
33 when needed in conjunction with an application to enter the United
34 States or any foreign nation.

35 (10) Any public utility, as defined in Section 216 of the Public
36 Utilities Code, when access is needed to assist in employing
37 persons who will be seeking entrance to private residences in the
38 course of their employment. The information provided shall be
39 limited to the record of convictions and any arrest for which the

1 person is released on bail or on his or her own recognizance
2 pending trial.

3 If the local agency supplies the information pursuant to this
4 paragraph, it shall furnish a copy of the information to the person
5 to whom the information relates.

6 Any information obtained from the local summary criminal
7 history is confidential and the receiving public utility shall not
8 disclose its contents, other than for the purpose for which it was
9 acquired. The local summary criminal history information in the
10 possession of the public utility and all copies made from it shall
11 be destroyed 30 days after employment is denied or granted,
12 including any appeal periods, except for those cases where an
13 employee or applicant is out on bail or on his or her own
14 recognizance pending trial, in which case the state summary
15 criminal history information and all copies shall be destroyed 30
16 days after the case is resolved, including any appeal periods.

17 A violation of any of the provisions of this paragraph is a
18 misdemeanor, and shall give the employee or applicant who is
19 injured by the violation a cause of action against the public utility
20 to recover damages proximately caused by the violation.

21 Nothing in this section shall be construed as imposing any duty
22 upon public utilities to request local summary criminal history
23 information on any current or prospective employee.

24 Seeking entrance to private residences in the course of
25 employment shall be deemed a “compelling need” as required to
26 be shown in this subdivision.

27 (11) Any city, county, city and county, or district, or any officer
28 or official thereof, if a written request is made to a local law
29 enforcement agency and the information is needed to assist in the
30 screening of a prospective concessionaire, and any affiliate or
31 associate thereof, as these terms are defined in subdivision (k) of
32 Section 432.7 of the Labor Code, for the purposes of consenting
33 to, or approving of, the prospective concessionaire’s application
34 for, or acquisition of, any beneficial interest in a concession, lease,
35 or other property interest.

36 Any local government’s request for local summary criminal
37 history information for purposes of screening a prospective
38 concessionaire and their affiliates or associates before approving
39 or denying an application for, or acquisition of, any beneficial
40 interest in a concession, lease, or other property interest is deemed

1 a “compelling need” as required by this subdivision. However,
2 only local summary criminal history information pertaining to
3 criminal convictions may be obtained pursuant to this paragraph.

4 Any information obtained from the local summary criminal
5 history is confidential and the receiving local government shall
6 not disclose its contents, other than for the purpose for which it
7 was acquired. The local summary criminal history information in
8 the possession of the local government and all copies made from
9 it shall be destroyed not more than 30 days after the local
10 government’s final decision to grant or deny consent to, or approval
11 of, the prospective concessionaire’s application for, or acquisition
12 of, a beneficial interest in a concession, lease, or other property
13 interest. Nothing in this section shall be construed as imposing
14 any duty upon a local government, or any officer or official thereof,
15 to request local summary criminal history information on any
16 current or prospective concessionaire or their affiliates or
17 associates.

18 (12) A public agency described in subdivision (b) of Section
19 15975 of the Government Code, for the purpose of oversight and
20 enforcement policies with respect to its contracted providers.

21 (d) Whenever an authorized request for local summary criminal
22 history information pertains to a person whose fingerprints are on
23 file with the local agency and the local agency has no criminal
24 history of that person, and the information is to be used for
25 employment, licensing, or certification purposes, the fingerprint
26 card accompanying the request for information, if any, may be
27 stamped “no criminal record” and returned to the person or entity
28 making the request.

29 (e) A local agency taking fingerprints of a person who is an
30 applicant for licensing, employment, or certification may charge
31 a fee to cover the cost of taking the fingerprints and processing
32 the required documents.

33 (f) Whenever local summary criminal history information
34 furnished pursuant to this section is to be used for employment,
35 licensing, or certification purposes, the local agency shall charge
36 the person or entity making the request a fee which it determines
37 to be sufficient to reimburse the local agency for the cost of
38 furnishing the information, provided that no fee shall be charged
39 to any public law enforcement agency for local summary criminal
40 history information furnished to assist it in employing, licensing,

1 or certifying a person who is applying for employment with the
2 agency as a peace officer or criminal investigator. Any state agency
3 required to pay a fee to the local agency for information received
4 under this section may charge the applicant a fee sufficient to
5 reimburse the agency for the expense.

6 (g) Whenever there is a conflict, the processing of criminal
7 fingerprints shall take priority over the processing of applicant
8 fingerprints.

9 (h) It is not a violation of this article to disseminate statistical
10 or research information obtained from a record, provided that the
11 identity of the subject of the record is not disclosed.

12 (i) It is not a violation of this article to include information
13 obtained from a record in (1) a transcript or record of a judicial or
14 administrative proceeding or (2) any other public record when the
15 inclusion of the information in the public record is authorized by
16 a court, statute, or decisional law.

17 (j) Notwithstanding any other law, a public prosecutor may, in
18 response to a written request made pursuant to Section 6253 of
19 the Government Code, provide information from a local summary
20 criminal history, if release of the information would enhance public
21 safety, the interest of justice, or the public's understanding of the
22 justice system and the person making the request declares that the
23 request is made for a scholarly or journalistic purpose. If a person
24 in a declaration required by this subdivision willfully states as true
25 any material fact that he or she knows to be false, he or she shall
26 be subject to a civil penalty not exceeding ten thousand dollars
27 (\$10,000). The requestor shall be informed in writing of this
28 penalty. An action to impose a civil penalty under this subdivision
29 may be brought by any public prosecutor and shall be enforced as
30 a civil judgment.

31 (k) Notwithstanding any other law, the Department of Justice
32 or any state or local law enforcement agency may require the
33 submission of fingerprints for the purpose of conducting summary
34 criminal history information record checks which are authorized
35 by law.

36 (l) Any local criminal justice agency may release, within five
37 years of the arrest, information concerning an arrest or detention
38 of a peace officer or applicant for a position as a peace officer, as
39 defined in Section 830, which did not result in conviction, and for
40 which the person did not complete a postarrest diversion program

1 or a deferred entry of judgment program, to a government agency
2 employer of that peace officer or applicant.

3 (m) Any local criminal justice agency may release information
4 concerning an arrest of a peace officer or applicant for a position
5 as a peace officer, as defined in Section 830, which did not result
6 in conviction but for which the person completed a postarrest
7 diversion program or a deferred entry of judgment program, or
8 information concerning a referral to and participation in any
9 postarrest diversion program or a deferred entry of judgment
10 program to a government agency employer of that peace officer
11 or applicant.

12 (n) Notwithstanding subdivision (l) or (m), a local criminal
13 justice agency shall not release information under the following
14 circumstances:

15 (1) Information concerning an arrest for which diversion or a
16 deferred entry of judgment program has been ordered without
17 attempting to determine whether diversion or a deferred entry of
18 judgment program has been successfully completed.

19 (2) Information concerning an arrest or detention followed by
20 a dismissal or release without attempting to determine whether the
21 individual was exonerated.

22 (3) Information concerning an arrest without a disposition
23 without attempting to determine whether diversion has been
24 successfully completed or the individual was exonerated.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 a local agency or school district has the authority to levy service
28 charges, fees, or assessments sufficient to pay for the program or
29 level of service mandated by this *act* and because other costs that
30 may be incurred by a local agency or school district will be incurred
31 because this act creates a new crime or infraction, eliminates a
32 crime or infraction, or changes the penalty for a crime or infraction,
33 within the meaning of Section 17556 of the Government Code, or
34 changes the definition of a crime within the meaning of Section 6
35 of Article XIII B of the California Constitution.

36 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
37 ~~Section 6 of Article XIII B of the California Constitution because~~
38 ~~the only costs that may be incurred by a local agency or school~~
39 ~~district will be incurred because this act creates a new crime or~~
40 ~~infraction, eliminates a crime or infraction, or changes the penalty~~

1 ~~for a crime or infraction, within the meaning of Section 17556 of~~
2 ~~the Government Code, or changes the definition of a crime within~~
3 ~~the meaning of Section 6 of Article XIII B of the California~~
4 ~~Constitution.~~

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